

Court enjoins DEP on dumping fee hike

By JOSHUA McMAHON

A state appeals court has temporarily halted a \$2 million statewide program to develop new methods of dealing with solid waste disposal.

The Appellate Division of Superior Court issued an order preventing the State Department of Environmental Protection (DEP) from collecting significantly increased dumping fees imposed on companies dealing in solid waste disposal.

The state had intended to use the fees to fund county and state planning for waste treatment and disposal.

The DEP was scheduled to collect the first installment Jan. 10, but the court ordered the money placed in an escrow account until resolution of the case.

Beatrice Tylutki, director of solid waste administration for the DEP, said the state cannot initiate the program without the additional monies and added that the fee schedules in effect will continue until the courts issue a decision.

The "long overdue" statewide planning for the disposal of solid wastes will have to wait "until monies are made available," she stated.

Mrs. Tylutki noted the Legislature had approved the Solid Waste Manage-

ment Act of 1975, which calls for the development of statewide programs, but failed to allocate money for the project.

She said the department then decided to raise the needed funds by increasing the fees charged to solid waste disposal operators.

She said the old rates provided the state with about \$280,000 per year. The department, however, needed \$2 million annually to run the program, and so it hiked the fees nearly tenfold.

Mrs. Tylutki said the fees went into effect Nov. 1, but the first payment was not due until next month and then every two months thereafter.

Under the program, the department will use \$1 million to fund solid waste planning on the state level, Mrs. Tylutki said.

In addition, the state would provide counties with funds to develop their own waste disposal plans and to explore alternatives to dumping.

The program is opposed by the Solid Waste Industry Council and various independent companies, which filed the legal action resulting in the temporary stay.

Theodore A. Schwartz, an attorney for the council, said the industry people objected to the new fees claiming they are discriminatory.

State loses a round in Edison dump fight

By LAWRENCE NAGY

The State Department of Environmental Protection (DEP) failed yesterday to halt dumping at a second site at the Kin-Buc landfill in Edison, when a Superior Court judge ruled the operation could continue on a limited basis.

Kin-Buc has been fighting an extended legal battle with state and Edison officials over environmental conditions at the site near the Raritan River. The existing site, once the sole dumping ground in New Jersey for hazardous chemical wastes, is under a state order to close by Jan. 15.

The DEP charged the landfill operators began disposing of solid waste last week in an unapproved adjacent area designated as Kin-Buc II.

Superior Court Judge David D. Furman, who issued a temporary restraint last week in New Brunswick, barring all dumping at the Kin-Buc II site, ruled yesterday the operation could resume under an injunction limiting the area of dumping and the total amount of solid waste accepted.

Theodore Schwartz, attorney for Kin-Buc, argued the Kin-Buc II site should not be treated as a new operation.

He said it was included in an original registration filed with the DEP in 1970 that covered 220 acres, with 90 acres intended for landfill operations.

Benjamin Weiner, who also represented Kin-Buc, contended an extension of the Kin-Buc II dumping ban by Furman would have put the landfill company out of business. He noted the landfill is obliged under contractual and Public Utilities Commission (PUC) commitments to serve 40 municipalities and dozens of commercial and industrial customers.

"If you close it, we're finished on Friday. We fire our employees and violate PUC regulations," Weiner said.

Weiner contended DEP failed to produce any evidence that showed continued operation of the Kin-Buc II site would cause irreparable harm to the environment or public.

Deputy Attorney General John Van Dalen, argued that the only plans submitted by Kin-Buc for the second site were rejected "as a matter of law" under a law signed in October that bans all chemical waste disposal within 1,000 yards of a floodway.

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